

10R-113

MOTION TO AMEND NO. 1

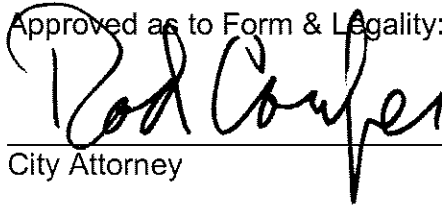
I hereby move to amend Bill No. 10R-113 in the following manner:

1. On page 1, line 22, after the word "Nebraska" insert the words which is attached hereto as Attachment "A".
2. Accepting the attached Attachment "A" to be included with this resolution.

Introduced by:

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Approved as to Form & Legality:

  
\_\_\_\_\_  
City Attorney

Requested by: Don Taute, Law Department

Reason for Request: To include the City of Lincoln, Nebraska Section 504/ADA Compliance Policy as part of the resolution.

**CITY OF LINCOLN, NEBRASKA**

**SECTION 504/ADA COMPLIANCE POLICY**

**POLICY STATEMENT**

The City of Lincoln, Nebraska will ensure that no qualified disabled individual shall, solely on the basis of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any of its programs, services, or activities as provided by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA). The City of Lincoln, Nebraska further ensures that every effort will be made to provide nondiscrimination in all of its programs or activities regardless of the funding source.

For our purposes, a disabled person is defined as any person who

- Has a physical or mental impairment that substantially limits one or more major life activities,
- Has a record of such an impairment, or
- Is regarded as having such an impairment.

**AUTHORITIES**

Section 504 of the Rehabilitation Act of 1973, as amended, provides that "No otherwise qualified disabled individual in the United States, as defined in section 7(6), shall, solely by reason of his disability, be excluded for the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

29 USC 794 (October 29, 1992 to the Rehabilitation Act of 1973) substitutes "a disability" for "handicaps" and "disability" for "handicap".

49 CFR Part 27.13 (Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefitting from Federal Financial Assistance) states, "This part applies to each recipient of Federal financial assistance from the Department of Transportation and to each program or activity that receives or benefits from such assistance".

49 CFR Part 28.102 (Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of Transportation) states, "This part applies to all programs or activities conducted by the Department of Transportation except for programs and activities conducted outside the United States that do not involve individuals with disabilities in the United States."

28 CFR Part 35 (Judicial Administration) states that: "The purpose of this part is to effectuate Subtitle A of Title II of the ADA which prohibits discrimination on the basis of disabilities by public entities.

49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefitting from Federal Financial Assistance) states, "The purpose of this part is to carry out the intent of Section 504 of the Rehabilitation Act of 1973 (29 USC 794) as amended, to the end that no otherwise qualified disabled individual in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

49 CFR Part 28-140 (Employment) states that, "(a) No qualified individual with disabilities shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Department," and "(b) The definitions, requirements, and procedures of Section 504 of the Rehabilitation Act of 1973 (29 USC 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

29 CFR Part 1613 (Equal Employment Opportunity in the Federal Government) states that: "It is the policy of the Government of the United States . . . to provide equal opportunity in employment for all persons to prohibit discrimination in employment because of race, color, religion, sex, or national origin and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency."

42 USC Part 12101-12213 (The Americans with Disabilities Act of 1990) states that: "No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment."

## **ORGANIZATION**

The Equal Opportunity Officer and Ombudsman of the City of Lincoln, Nebraska, jointly serve as ADA Coordinator and are in the Mayor's Department and report to the Mayor of the City of Lincoln, Nebraska.

## **SECTION 504/ADA COORDINATOR RESPONSIBILITIES**

Section 504/ADA Coordinator Responsibilities include the following:

- Monitoring the City's current policies and practices for implementing ADA/504;

- Identifying shortcomings in compliance and developing remedies;
- Evaluating remedial steps taken to eliminate the effects of discrimination;
- Monitoring complaint procedures that incorporate appropriate due process standards and providing for prompt and equitable resolutions of complaints alleging an action prohibited by ADA/504;
- Processing the disposition of complaints filed under ADA/504;
- Insuring agency compliance with ADA/504;
- Collaborating and coordinating with heads of the major divisions and departments to enable ADA/504 compliance efforts;
- Establishing and maintaining collaborative relationships with critical external stakeholders, such as disability advocacy groups and organizations;
- Monitoring the agencies' ADA/504 transition plan to ensure that all department facilities remain in compliance with applicable accessibility standards;
- Monitoring established procedures to ensure that requested auxiliary aides are provided for persons;
- Conducting annual reviews of ADA/504 program areas;
- Conducting ADA/504 training programs for managers and employees;
- Preparing a report of ADA/504 accomplishments and problem areas for the NDOR annual report to FHWA;
- Monitoring the preparation of ADA/504 information for dissemination to the general public, including the "Notice to the Public" offered to provide reasonable accommodation upon request; and
- Identifying, investigating, and eliminating ADA/504 discrimination when found to exist.

## **SECTION 504/ADA NOTICE TO PUBLIC**

The City of Lincoln, Nebraska does not discriminate on the basis of disability in admission of its programs, services, or activities, in access to them, in treatment of individuals with disabilities, or in any aspect of their operations. The City of Lincoln, Nebraska also does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Questions, complaints, or requests for additional information or accommodation regarding the ADA and Section 504 may be forwarded to the designated ADA and Section 504 compliance coordinator:

Larry Williams, Equal Opportunity Officer  
 (402) 441-7624  
 440 South 8th Street, Suite 101  
 Lincoln, NE 68508

OR

Lin Quenzer, Ombudsman  
(402) 441-7511  
555 South 10th Street  
Lincoln, NE 68508

Available: 8:00 a.m. to 5:00 p.m., Monday through Friday

## **SECTION 504/ADA SELF-EVALUATION AND TRANSITION PLAN**

The City of Lincoln, Nebraska completed a Self-Evaluation and Transition Plan for purposes of compliance with Section 504/ADA in 1992 and has since updated the Transition Plan to ensure that all departmental facilities remain in compliance with the applicable accessibility standards as required. The process in self-evaluation and adopting the Transition Plan consisted of having each department analyze all facilities to determine whether they meet the accessibility standards as provided in Section 504 and the ADA. Most recently, in 2007, the City submitted to the Federal Highway Administration the Pedestrian Master Plan and Transition Plan for Facilities Located in Street Rights-of-Way. Additionally, the City requires departments to periodically review facilities to determine their continued compliance with the ADA/504 and has letters of assurance from each department and the Public Building Commission for purposes of assuring continued compliance with ADA/504.

## **COMPLAINT PROCEDURES**

Attached to this Policy is the City's grievance procedure under the ADA and the complaint form to be filed in the event there is a complaint regarding the City's noncompliance with ADA/504.

## **REASONABLE ACCOMMODATION PROCEDURES**

The City adheres to the reasonable accommodation process as outlined in the EEOC Guidance for Compliance with the ADA. Upon the request for a reasonable accommodation, the City examines job duties and responsibilities to determine essential functions and then consults with the employee to determine what physical or mental abilities and limitations may exist as they relate to performing the employee's essential job functions. The City then determines whether the individual has a disability covered by the ADA and makes an individualized determination based upon objective medical evidence as to whether the disability poses a threat of harm to the employee or others and whether that threat can be removed with a reasonable accommodation. Through the interactive process, the City and employee identify potential accommodations and the City may consult with other experts in determining appropriate accommodation for an individual with a disability. If there is more than one accommodation which would prove effective, the individual's preference is considered but the City would make the final choice and may choose an accommodation that is less expensive or easier to provide. The City considers on a case-by-case basis whether a reasonable accommodation would impose an undue hardship. If a particular accommodation would

impose an undue hardship, the City will not provide it but the City will consider whether an alternative accommodation is available that would not impose an undue hardship. Upon determining that a reasonable accommodation exists that would not cause an undue hardship, the City would provide it in a timely manner.

**ASSURANCES**

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the City of Lincoln, Nebraska, desiring to avail itself of federal financial assistance from the US Department of Transportation, hereby gives assurance that no qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this federal financial assistance.

The City of Lincoln, Nebraska further assures that its programs will be conducted, and its facilities operated, in compliance with all requirements imposed by or pursuant to 49 CFR Part 27, 28 CFR Part 35 and 42 USC 12101-12213.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010 at Lincoln, Nebraska.

The City Council of the City of Lincoln, Nebraska:

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_____	_____
_____	_____
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